**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**SIDE JURISDICTION**
**CRIMINAL APPLICATION NO.836 OF 2007**

Mr.Madhukar Aher ...Applicant.
V/s.
Mr.A.B.Kulkarni & Ors. ...Respondents.

Mr.Lobo, adv. for the Applicant.
Shri Bhatia, adv. for the Respondent No.1.
B.K.Ashok, adv. for the Respondent No.2.

**CORAM: J.H.BHATIA, J.**
**DATE : 10th April, 2007.**

**P.C.:**

1. Heard Mr.Lobo the learned counsel for the applicant and Mr.Ashok the learned counsel for the respondent no.2 and Mr.Bhatia for the respondent no.1.

2. The applicant and the respondent nos.1 and 2 are the members of Indian Airlines Gaganvihar co-operative housing society. The respondent no.2 was a secretary of the said society during the period from 1984 to 1990. The applicant filed complaint against the respondent nos.1 and 2 and that complaint was registered as criminal case on 31-5-2002 in the Court of Metropolitan Magistrate, 10th Court, Andheri. The case was for the offences punishable under Sections 378, 403, 405, 420, 424, 468, 477A of the I.P.C. The allegations were made mainly about mismanagement of the society and there was general allegation about misappropriation of

funds. The alleged offences were committed during the period from 1984-1990 and the complaint was filed in the year 2000, i.e, almost 10 years after the alleged offences. After hearing the parties the learned Metropolitan Magistrate passed an order on 8-2-2005 discharging the accused no.2 under Section 245(2) of the Cr.P.C. The learned Magistrate noted that the complainant was not authorised by any resolution of the society to file a complaint against the respondent nos.1 and 2. He further noted that certain allegations made in paragraph 7 of the complaint are mainly about mismanagement of the funds as well as mismanagement in proper functioning of the society. Only in paragraph 7(r), it was alleged that payments were repeatedly purported to have been made to the architect, lawyers and plumbers without proper receipts and no record is made available regarding such payments. In view of this, the learned Magistrate found that there is no material to establish the offences punishable under Sections 420 read with Section 34 of the I.P.C. Infact the society had passed the resolution condemning the act of the present applicant in filing complaint against the respondents. The applicant challenged that order by filing revision application before the Sessions Court. The learned Additional Sessions Judge after giving detailed reasons rejected revision application by order

dated 19th July, 2006.

3. The applicant has preferred the present application under Section 482 seeking to quash the orders passed by both the Courts below.

4. After hearing the parties at some length and after perusal of the complaint and impugned orders, I find no substance in the present application. In fact about the mismanagement of the society, action may be taken by the concerned Registrar under Maharashtra Co-operative Societies Act.

5. Application stands dismissed summarily.

**(J.H.Bhatia,J.)**